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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4845 OF 2006

Shri. Namdeo Maruti Mhatre ... Petitioner

Versus

The State of Maharashtra and Ors.... Respondents

Mr. K.S. Desal for Petitioner.

Mr. C.R. Sonawane, A.G.P. for R. Nos. 1 to 3 and 5.

Mr. N.V. Walawalkar with Mr. Sudhir Prabhu for R. No. 4.

CORAM: F.I. REBELLO &
S.J. VAZIFDAR,JJ.
DATED: FEBRUARY 09, 2007

P.C.:

. The Town planning scheme has been proposed for the area of Panvel Municipal Council. That scheme according to learned counsel has not yet been sanctioned. It is the case of the Petitioner that he claims right as deemed Purchaser under the provisions of the Agricultural Tenancy Act. It is therefore, submitted that he had raised plea before the arbitrator and while such plea is raised, the arbitrator is bound to refer the same to State Government under Section 71 of the M.R.T.P. Act. Our attention is invited to the reference of the Arbitrator. It is submitted that the State Government has till date not taken decision and considering that the scheme to the extent of

Petitioners land should not be sanctioned.

. Section 71 deals with the issue of disputed ownership and the procedure. However, section 71(2) is relevant which reads as under :

> "Such decision shall not be subject to appeal and it shall not operate as bar to regular suit."

. It is therefore, clear that the decision taken under Section 71(2) is not final but is subject to the decision of the competent civil Court. In the instant case, the issue as to whether the tenant is deemed purchaser is the issue exclusively within the jurisdiction of the competent authority under Maharashtra Agricultural Tenancy Act. It is the contention of the Petitioner that he has moved such application on 2.2.2007. If that be the case, whatever scheme is framed would be subject to the decision of the tribunal under the provisions of the Maharashtra Agricultural Tenancy Act. In the light of that, no interference is called for. Petition disposed of.

(S.J. VAZIFDAR,J.) **(F.I.REBELLO,J.)**